THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

&

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.A.NO.446 of 2007

23.05.2007

Between
P.Venugopal Naidu

..Petitioner

and

1.The State Transport Appellate Tribunal, AP Hyderabad rep., by its Presiding Officer and others.

..Respondents

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY
&
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.A.NO.446 of 2007

ORDER: (Per CVNR,J)

This writ appeal is directed against the order of the learned single Judge dated 22.3.2007 in WP No.5589 of 2007 whereby he dismissed the writ petition.

The appellant applied for grant of pucca permit on the route Nakkaladinne in Madanapalli town to C.T.M of Chittoor District to the second respondent. The Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') raised two objections to the

application before the second respondent namely that (i) the route being a new route is not formulated by the Government and, therefore, the application for pucca permit does not lie and (ii) that the route in question overlaps the notified route by 15.9 KM. The second respondent, however, chose to reject the application of the appellant on the first ground, namely; that the route being a new route is not formulated by the Government. The second respondent, however, has not gone into the second objection raised by the APSRTC. Feeling aggrieved, the appellant filed an appeal before the 1st respondent. The 1st respondent allowed the appeal by setting aside the order of the 2nd respondent and remanded the matter for fresh consideration to consider the second objection raised by the APSRTC. Questioning the said order, the appellant filed Writ Petition No.5589 of 2007. The learned single Judge having heard the writ petition dismissed the same on the ground

that the 1st respondent was justified in remanding the matter to the 2nd respondent to ascertain as to whether the proposed route over lapped the notified route as alleged by APSRTC. The learned single Judge also rejected the contention of the appellant observing that the 2nd respondent has not decided the issue as to whether the proposed route over lapped the notified route, and, therefore, there was no need to remand the matter to it.

Heard Sri T.Venkataramana, learned counsel for the appellant and Sri K.Srinivasa Rao, learned standing counsel for APSRTC.

Sri T.Venkataramana, learned counsel for the appellant submitted that since the APSRTC has not pressed the second ground namely the proposed route over lapped the notified route, the 1st respondent ought not to have remanded the matter to the 2nd respondent to decide on the second objection raised by the

APSRTC. He also submitted that the learned single Judge ought to have directed the 2nd respondent to grant permit to the appellant in view of the finding of respondent No.1 on the 1st objection that the proposed route was not a new route. He also relied upon the judgment of the Supreme Court reported in **Mohinder Singh Gill v. Chief Election Commissioner, New Delhi**[1].

We have carefully considered the contentions of the learned counsel and are of the view that the order of the learned single Judge does not suffer from any error warranting interference by us while exercising our Letters Patent jurisdiction. There is nothing on record to show that the APSRTC which admittedly raised two objections before the 2nd respondent has given up second objection relating to over lapping of the proposed route. If the 2nd respondent has chosen to reject the application only on one

ground and that ground having not been accepted by the 1st respondent, there is nothing wrong in the 1st respondent remanding the matter to the 2nd respondent to deal with and decide on the second objection raised by the APSRTC. The judgment of the Supreme Court, on the facts of this case, has no application at all because that was a case where a statutory functionary sought to support its order passed earlier by supplementing reasons by filing affidavits, which were not contained in its order originally passed. In the instant case, the 1st respondent, exercising quasi judicial functions remanded the case to respondent No.2 to consider an objection which was raised by a party to the proceedings, but not considered by it. The said judgment is therefore of no avail to the appellant.

For the above reasons, we do not find any justifiable reasons to interfere with the order of the learned single Judge.

Accordingly, the writ appeal is dismissed.

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B.SESHASAYANA REDDY,J

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C.V.NAGARJUNA REDDY, J

23.5.2007
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[1] AIR 1978 SC 851